

# PUBLIC MATTER

STATE BAR OF CALIFORNIA  
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**FILED**

**JUN 18 2012**

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of: ) Case No. 11-O-19086, 11-O-18203  
)  
GREGORY SCOTT EMERSON, ) NOTICE OF DISCIPLINARY CHARGES  
No. 205053, )  
)  
A Member of the State Bar. )

## NOTICE - FAILURE TO RESPOND!

**IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
THE STATE BAR COURT TRIAL:**

- (1) YOUR DEFAULT WILL BE ENTERED;**
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;**
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;**
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Gregory Scott Emerson ("Respondent") was admitted to the practice of law in the  
4 State of California on December 8, 1999, was a member at all times pertinent to these charges,  
5 and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 11-O-19086  
8 *Rules of Professional Conduct* rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. Respondent willfully violated *Rules of Professional Conduct* rule 3-110(A) by  
11 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as  
12 follows:

13 3. On or about April 25, 2008, Respondent was retained by Gregory Vargas ("Vargas")  
14 to file an appeal to an adverse Civil Service Commission finding against Vargas on Vargas'  
15 behalf regarding Vargas' employment by the Los Angeles Sheriff's Department. The adverse  
16 finding was entered in or about January 2008.

17 4. Vargas paid Respondent \$4,000.00 on or about April 25, 2008 as an advance fee for  
18 Respondent to prepare and file Vargas' appeal. Respondent negotiated the check on May 1,  
19 2008.

20 5. Respondent did not file Vargas' appeal.

21 6. Respondent did not refund any portion of the fees paid by Vargas.

22 7. By failing to file Vargas' appeal at any point since April 25, 2008, Respondent  
23 intentionally, recklessly, or repeatedly failed to perform legal services with competence.

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2 COUNT TWO

3 Case No. 11-O-19086  
4 *Business and Professions Code* section 6106  
[Misrepresentation]

5 8. Respondent willfully violated *Business and Professions Code* section 6106 by  
6 committing an act involving moral turpitude, dishonesty or corruption, as follows:

7 9. The factual allegations of Count One are incorporated by reference.

8 10. On or about March 26, 2010, Vargas sent Respondent an e-mail message that read as  
9 follows:

10 "Greg will you please send me the documents that Mr. Burns has  
11 sent to you. If there is some sort of problem, let me know about it.  
I want to go back to work for the department as soon as possible."

12 11. On or about March 16, 2010, Respondent's e-mail reply read as follows:

13 "there(sic) is no problem. . .i(sic) will send again. . .its(sic) a  
14 proposal. it(sic) has to be approved by Waldy now that approved  
15 by County Counsel. . .should be done ASAP. They know that you  
want to go back quickly."

16 12. On or about September 15, 2010, Respondent sent Vargas a text message that Vargas  
17 "should be getting a call or letter today. Please let me know when [Vargas] recieve(sic)".

18 13. On or about September 21, 2010, Respondent sent Vargas a text message which read  
19 in part: "Call me before you respond to letter which is going to ask u to call for appt. You are not  
20 interviewing. U only going to get orientation, etc."

21 14. On or about October 7, 2010 at 9:13 a.m., Vargas sent Respondent a text message  
22 which read "I'm wasting too much time. I want to get back to work with the department as soon  
23 as possible."

24 15. On or about October 7, 2010 at 9:17 a.m., Respondent replied to Vargas with a text  
25 message that read "Let me call first. It was inside deal. I don't want to jeopardize."

26 16. Respondent never negotiated Vargas' case with the Los Angeles Sheriff's  
27 Department.

28 17. Vargas never returned to work for the Los Angeles Sheriff's Department.

1 18. Vargas was never offered an opportunity to return to work for the Los Angeles  
2 Sheriff's Department.

3 19. By representing to Vargas that he had been offered an opportunity to rejoin the Los  
4 Angeles Sheriff's Department when in fact he had not been, Respondent committed an act  
5 involving moral turpitude, dishonesty or corruption.

6 COUNT THREE

7 Case No. 11-O-19086  
8 *Business and Professions Code* section 6068(m)  
9 [Failure to Respond to Client Inquiries]

10 20. Respondent willfully violated *Business and Professions Code* section 6068(m), by  
11 failing to respond promptly to reasonable status inquiries of a client in a matter in which  
12 Respondent had agreed to provide legal services, as follows:

13 21. The factual allegations of Counts One and Two are incorporated by reference.

14 22. By failing to respond to Vargas' inquiries with accurate information and failing to  
15 provide Vargas with an accurate description of the status of Vargas' case, Respondent failed to  
16 respond promptly to reasonable status inquiries of a client in a matter in which Respondent had  
17 agreed to provide legal services.

18 COUNT FOUR

19 Case No. 11-O-19086  
20 *Business and Professions Code* section 6068(i)  
21 [Failure to Cooperate in State Bar Investigation]

22 23. Respondent willfully violated *Business and Professions Code* section 6068(i) by  
23 failing to cooperate and participate in a disciplinary investigation pending against Respondent, as  
24 follows:

25 24. The factual allegations of Counts One, Two and Three are incorporated by reference.

26 25. On or about November 7, 2011, Vargas filed a State Bar complaint against  
27 Respondent which included several allegations.  
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26. On or about December 13, 2011, a State Bar investigator mailed a letter to Respondent at his State Bar membership records address requesting that Respondent respond in writing by December 27, 2011 to specified allegations of misconduct being investigated in the Vargas matter. Respondent received the letter.

27. On or about February 9, 2012, a State Bar investigator e-mailed Respondent at his State Bar membership records address requesting that Respondent respond in writing to specified allegations of misconduct being investigated in the Vargas matter. Respondent received the e-mail.

28. On or about February 10, 2012, Respondent e-mailed the State Bar investigator. Respondent requested that the letter originally mailed to him on December 13, 2011 be sent to Respondent via e-mail.

29. On or about February 10, 2012, the investigator's letter originally mailed to Respondent's membership records address was e-mailed to Respondent. Respondent received the e-mailed letter.

30. At no time did Respondent provide a written response to the factual allegations described within the investigator's letter, or otherwise cooperate or participate in the investigation of the Vargas matter.

31. By not providing a written response to the factual allegations raised by the Vargas matter or otherwise cooperating or participating in the investigation of the Vargas matter, Respondent willfully failed to cooperate and participate in a disciplinary investigation pending against Respondent.

COUNT FIVE

Case No. 11-O-18203  
*Rules of Professional Conduct* rule 3-110(A)  
 [Failure to Perform with Competence]

32. Respondent willfully violated *Rules of Professional Conduct* rule 3-110(A) by intentionally, recklessly, or repeatedly failing to perform legal services with competence, as follows:

1 33. Plaintiff Hector Sorzano Aguirre ("Plaintiff") filed a lawsuit in the East District of the  
2 Los Angeles County Superior Court against Defendant Bodega Latina Corporation dba El Super  
3 ("Defendant") and Does 1-50 on or about May 24, 2010 under case number KC058793J  
4 (*"Aguirre vs. Bodega Latina"*).

5 34. On or about July 28, 2010, Respondent filed an answer on behalf of Defendant, but  
6 did not serve Plaintiff with a copy of the answer.

7 35. On or about September 27, 2010, Plaintiff served Defendant with both Form  
8 Interrogatories and Requests for Production of Documents by mail. Defendant's responses to the  
9 form interrogatories and the requests for production were due by November 1, 2010.

10 36. Defendant did not respond to Plaintiff's discovery requests.

11 37. On or about November 18, 2010, Plaintiff filed a motion to compel Defendant's  
12 responses to both Plaintiff's Form Interrogatories and Requests for Production of Documents,  
13 and served this motion upon Defendant via Respondent.

14 38. Defendant failed to file an opposition to the motion to compel.

15 39. On or about January 12, 2011, the court heard Plaintiff's motion to compel.  
16 Defendant did not appear at the hearing. The court ordered as follows:

- 17 a. Plaintiff's motion to compel responses to form interrogatories and requests for  
18 production of documents was granted;
- 19 b. Defendant was ordered to provide verified responses without objections to Form  
20 Interrogatories and Request for Production of Documents within 10 days;
- 21 c. Defendant and Respondent were ordered to pay Plaintiff's counsel discovery  
22 sanctions in the amount \$1,080.00 within ten (10) days.

23 40. Despite the January 12, 2011 court orders, Defendant did not provide the verified  
24 discovery responses as required.

25 41. Neither Defendant nor Respondent paid any of the \$1,080.00 in sanctions.

26 42. On or about January 25, 2011, Plaintiff filed a motion for terminating sanctions  
27 against Defendant. The same motion also demanded sanctions against Respondent in the amount  
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1 of \$1,790.00 on the grounds that Respondent (on Defendant's behalf) failed to provide Plaintiff  
2 with a copy of the answer to Plaintiff's complaint and then failed to provide responses to  
3 discovery despite court orders to the contrary.

4 43. On or about February 4, 2011, Plaintiff filed a notice of Defendant's non-opposition  
5 to the motions filed on or about January 25, 2011.

6 44. On or about February 7, 2011, Plaintiff and Defendant were scheduled to attend  
7 court-mandated settlement conference at the Stanley Mosk Courthouse in Los Angeles.  
8 Plaintiff's counsel appeared. Neither Respondent nor Defendant appeared.

9 45. On or about February 9, 2011, Plaintiff filed a motion for sanctions arising from  
10 Defendant's failure to appear at the court-ordered settlement conference. Defendant offered no  
11 opposition to Plaintiff's motion.

12 46. On or about February 16, 2011, the court granted Plaintiff's motion for terminating  
13 sanctions. Defendant's answer was ordered stricken, and the court clerk was directed to enter  
14 Defendant's default.

15 47. On or about April 7, 2011, the court made a tentative ruling of judgment for Plaintiff  
16 in the amount of \$138,979.95.

17 48. On or about August 16, 2011, Respondent filed a motion to vacate both the default  
18 and default judgment on behalf of Defendant. Respondent also filed a Declaration in which he  
19 admitted his failures to respond to discovery and his failure to oppose motions brought by  
20 Plaintiff. Respondent also acknowledged that his client was not aware of these failures until after  
21 they had occurred.

22 49. On or about September 21, 2011, Respondent was personally sanctioned \$4,900.00  
23 by the court. The sanctions were ordered payable to Plaintiff's counsel.

24 50. Respondent did not pay the \$4,900.00 in sanctions.

25 51. Respondent did not report the \$4,900.00 in sanctions to the State Bar.

26 52. By failing to respond to discovery, failing to respond to Plaintiff's motions to compel,  
27 failing to respond to Plaintiff's motions for sanctions and failing to attend a court-mandated  
28

1 settlement conference, Respondent intentionally, recklessly, or repeatedly failed to perform legal  
2 services with competence.

3 COUNT SIX

4 Case No. 11-O-18203  
5 *Business and Professions Code* section 6068(m)  
6 [Failure to Inform Client of Significant Development]

7 53. Respondent willfully violated *Business and Professions Code* section 6068(m) by  
8 failing to keep a client reasonably informed of significant developments in a matter in which  
9 Respondent had agreed to provide legal services, as follows:

10 54. The factual allegations of Count Five are incorporated by reference.

11 55. By failing to advise his client of Plaintiff's discovery requests, failing to advise his  
12 client of Plaintiff's motions to compel and failing to advise his client of Plaintiff's motions for  
13 terminating sanctions, Respondent failed to keep a client reasonably informed of significant  
14 developments in a matter in which Respondent had agreed to provide legal services.

15 COUNT SEVEN

16 Case No. 11-O-18203  
17 *Business and Professions Code* section 6103  
18 [Failure to Obey a Court Order]

19 56. Respondent willfully violated *Business and Professions Code* section 6103 by  
20 willfully disobeying or violating an order of the court requiring him to do or forbear an act  
21 connected with or in the course of Respondent's profession which he ought in good faith to do or  
22 forbear, as follows:

23 57. The factual allegations of Counts Five and Six are incorporated by reference.

24 58. By failing to comply with the court's order that Defendant produce discovery and  
25 failing to comply with the court's order that sanctions be paid to Plaintiff's counsel, Respondent  
26 willfully disobeyed or violated an order of the court requiring him to do or forbear an act  
27 connected with or in the course of Respondent's profession which he ought in good faith to do or  
28 forbear.



1 COUNT EIGHT

2 Case No. 11-O-18203  
3 *Business and Professions Code* section 6068(o)(3)  
4 [Failure to Report Judicial Sanctions]

5 59. Respondent willfully violated *Business and Professions Code* section 6068(o)(3) by  
6 failing to report to the agency charged with attorney discipline, in writing, within 30 days of the  
7 time Respondent had knowledge of the imposition of any judicial sanctions against Respondent,  
8 as follows:

9 60. The factual allegations of Counts Five, Six and Seven are incorporated by reference.

10 61. By failing to report to the State Bar the \$4,900.00 in sanctions levied against  
11 Respondent personally, Respondent failed to report to the agency charged with attorney  
12 discipline, in writing, within 30 days of the time Respondent had knowledge of the imposition of  
13 any judicial sanctions against Respondent.

14 COUNT NINE

15 Case No. 11-O-18203  
16 *Business and Professions Code* section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

17 62. Respondent willfully violated *Business and Professions Code* section 6068(i) by  
18 failing to cooperate and participate in a disciplinary investigation pending against Respondent, as  
19 follows:

20 63. The factual allegations of Counts Five, Six, Seven and Eight are incorporated by  
21 reference.

22 64. On or about November 7, 2011, the State Bar received a "Discipline Referral Form"  
23 describing Respondent's behavior in the *Aguirre vs. Bodega Latina* matter.

24 65. On or about November 16, 2011, a State Bar investigator mailed a letter to  
25 Respondent at his State Bar membership records address requesting that Respondent respond in  
26 writing by November 30, 2011 to specified allegations of misconduct being investigated in the  
27 *Aguirre vs. Bodega Latina* matter. Respondent received the letter.

1           66. On or about December 6, 2011, a State Bar investigator mailed a second letter to  
2 Respondent at his State Bar membership records address requesting that Respondent respond in  
3 writing by December 20, 2011 to specified allegations of misconduct being investigated in the  
4 *Aguirre vs. Bodega Latina* matter. Respondent received the letter.

5           67. On or about February 9, 2012, a State Bar investigator e-mailed Respondent at his  
6 State Bar membership records address requesting that Respondent respond in writing to specified  
7 allegations of misconduct being investigated in the *Aguirre vs. Bodega Latina* matter.  
8 Respondent received the e-mail.

9           68. Respondent did not provide a written response to the factual allegations within the  
10 investigator's letters.

11           69. By not providing a written response to the factual allegations raised in the *Aguirre vs.*  
12 *Bodega Latina* matter, Respondent willfully failed to cooperate and participate in a disciplinary  
13 investigation pending against Respondent.

14  
15                           **NOTICE - INACTIVE ENROLLMENT!**

16           **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**  
17 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**  
18 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**  
19 **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO**  
20 **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**  
21 **INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE**  
22 **ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE**  
23 **RECOMMENDED BY THE COURT.**

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**NOTICE - COST ASSESSMENT!**

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: June 15, 2012

By: 

William Todd  
Deputy Trial Counsel

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Paula Zeider

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